

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Case No. 09-42599

ROBERT SLACK,

Chapter 7

Debtor.

Judge Thomas J. Tucker

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**ORDER DECLINING TO ENTER STIPULATED ORDER  
“REINSTATING” RESCINDED REAFFIRMATION AGREEMENT**

On March 30, 2009, a Reaffirmation Agreement between Debtor and Creditor Capital One Auto Finance was filed (Docket # 16). On April 15, 2009, Debtor filed a notice rescinding the Reaffirmation Agreement. (Docket # 17.) Over a month later, on May 18, 2009, Debtor filed (1) a purported notice of withdrawal of Debtor’s rescission of the Reaffirmation Agreement at Docket # 17 (*see* Docket # 25); and (2) a “Stipulation [Between Debtor and Capital One Auto Finance] to Reinstate Reaffirmation Agreement” (Docket # 26). Also on May 18, 2009, Debtor submitted to the Court a proposed order purporting to “reinstate” the rescinded reaffirmation agreement. The Court will not enter the proposed order.

There is no provision in the Bankruptcy Code or in any applicable rules allowing a Debtor who has rescinded a reaffirmation agreement to later “withdraw” that rescission, or to “reinstate” the rescinded reaffirmation agreement. Rather, the proper course of action is to file a new reaffirmation agreement (assuming the new reaffirmation agreement is made before the Debtor receives a discharge).

Accordingly,

IT IS ORDERED that the Court declines to enter the Debtor’s proposed stipulated order withdrawing the rescission of the Reaffirmation Agreement between Debtor and Creditor Capital

One Auto Finance. The rescinded Reaffirmation Agreement (Docket # 16) remains rescinded and, therefore, unenforceable.

This Order is without prejudice to the right of the Debtor and Capital One Auto Finance to make and file a new reaffirmation agreement, provided that it is made before Debtor is granted a discharge in this case.

**Signed on May 18, 2009**

/s/ Thomas J. Tucker  
**Thomas J. Tucker**  
**United States Bankruptcy Judge**